REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

I. ANDAYA TRADING,
Petitioner,

versus

CTA CASE NO. 768

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

Petitioner appealed from the decision of respondent dated February 5, 1960, affirming that of the Collector of Customs which ordered that the 150 tins of safety matches imported by petitioner from Hongkong sometime in 1954 were subject to forfeiture, pursuant to Section 1363(f) of the Administrative Code.

The facts of the case are not disputed, the parties having entered into a stipulation of facts, as follows:

> 1. That the one hundred fifty (150) tins of safety matches consigned to the I. ANDAYA TRADING, arrived in the Port of Manila, from Hongkong on September 15, 1954 on board the S/S "Talisman", registry No. 1197, and declared in Entry No. 73580, series of 1954;
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> 2. That the shipment is accompanied by the following documents: Commercial Invoice dated at Hongkong September 8, 1954, for the 150 tins of safety matches, C. & F. Value $1,050.00; the certificate of origin of the government of Hongkong dated August 9, 1954 or the Bill of Lading No. 33, dated at

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Hongkong September 11, 1954, for the 150 tins safety matches; Official Receipt No. 52769 dated September 16, 1954, in the amount of ₱4,179.00 representing estimated duties and specific tax, with copies of the delivery permit for the 150 tins safety matches;

3. That the shipment in question arrived without any consular invoice nor a bank release certificate, hence, the seizure for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code, on the ground that no bank release certificate was submitted;

4. That the said shipment was released under bond in the amount of ₱4,664.19 by the Paramount Surety & Insurance Co., Inc. (pp. 53-54, Customs rec.)

After notice and hearing, the Collector of Customs rendered a decision dated June 28, 1955, ordering petitioner and its surety to pay, jointly and severally, the sum of ₱4,664.19 covered by the bond of Paramount Surety & Insurance Co. Inc. (pp. 41-42, Customs rec.). On appeal by petitioner to respondent, the latter affirmed the said decision on February 5, 1960 (pp. 33-36, Customs rec.). Hence, this appeal.

Subsequent to the filing of respondent's answer, petitioner moved to set aside the decision and to dismiss the forfeiture proceedings on the ground that Central Bank Circular No. 133 has repealed Central Bank Circulars Nos. 44 and 45, and consequently the liability of the merchandise incurred thereunder has been abated (pp. 26-32, C. T. A. rec.). Respondent filed its opposition to the motion to

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set aside its decision on the ground that the motion raised new issues for the first time (pp. 35-40, C. T. A. rec.). However, in a resolution dated January 31, 1963, this Court held in abeyance the resolution of the motion, the same to be considered in the decision of the case on the merits (pp. 47-48, C. T. A. rec.).

Later, petitioner moved to postpone the hearing of the case until the Supreme Court shall have decided the cases of Andres Lazaro v. The Commissioner of Customs in G.R. Nos. L-21790 & 21794; G. R. Nos. L-22511 & 22513; G.R. Nos. L-22512 & 22514; Litton & Co., v. The Commissioner of Customs, G.R. No. L-22516, which involve the same issue as that raised in the case at bar (pp. 55-56, C. T. A. rec.). Accordingly, the hearing was postponed (p. 57, C. T. A. rec.). On December 24, 1965, the Supreme Court rendered its decision in the Lazaro cases.

The issue raised for determination in this case boils down to whether or not the forfeiture of the merchandise in question and/or the bond is legal.

The legality of the forfeiture is contested on the ground that Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133. It is also argued that Circular No. 45 which requires a prior license for no-dollar imports under penalty of forfeiture has been repealed by Section 6 of Republic Act No. 1410.

In the case of Andres E. Lazaro v. The Commissioner of Customs, G. R. Nos. L-21790 & 21794, Dec. 24, 1965, which involves the same issue, the Supreme Court held:

> The issue of whether or not the importations in question are subject to forfeiture for lack of a Central Bank release certificate in violation of Central Bank Circulars 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code has already been answered in the affirmative in previous cases involving similar facts.[1] We see no cogent reason to alter our previous rulings.
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> Central Bank Circular 133 did not repeal Circulars 44 and 45 with respect to the necessity of a release certificate. As a matter of fact, paragraph 6 of Circular 133 required imports to be released only upon presentation of a release certificate issued by the Central Bank. Not only that, Section 14 of Circular 44 which states:
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> > "14. No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any authorized Agent Bank in a form prescribed by the Monetary Board."
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> was deemed incorporated to Circular 133 by virtue of paragraph 8 thereof which we quote hereunder:[2]
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> > "8. All existing circulars, rules, regulations, and conditions governing transactions in foreign exchange not inconsistent with

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[1] Serree Investment Company v. Commissioner of Customs, L-21217, November 29, 1965 and cases cited therein.

[2] Bombay Department Store v. Commissioner of Customs, L-20489, June 22, 1965; Bombay Department Store v. Commissioner of Customs, L-20460, September 30, 1965.

the provisions of this Circular, are deemed incorporated hereto and made integral parts hereof by reference."

With respect to the assertion that the enactment of Republic Act 1410 abated any liability incurred for violation of Central Bank Circular 45, suffice it to say that the importations in question do not come within the operation of said Act, for Section 3 thereof says:

> "SEC. 3. x x x Provided, however, That goods and commodities in transit or previously imported on a no-dollar remittance basis at the time of the approval of this Act shall not be affected by the operation of this Act." (Underscoring supplied)

(See also Kian v. The Collector of Customs of Manila, G.R. No. L-20803, Jan. 31, 1966; Capulong v. Aseron, G.R. No. L-22989, May 14, 1966; Andres E. Lazaro v. The Comm. of Customs, G.R. Nos. L-22511 & 22513, May 16, 1966 and authorities therein cited.)

In line with the decision of the Supreme Court in Lazaro v. Commissioner, supra, the herein appeal is hereby dismissed, with costs against petitioner.

SO ORDERED.

Quezon City, December 20, 1966.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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